

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Land Division  
Honolulu, Hawaii 96813

November 17, 2006

Board of Land and Natural Resources  
State of Hawaii  
Honolulu, Hawaii

PSF No.: 04HD-357

HAWAII

**Amend Prior Board Action of April 22, 2005, Item D-6, Termination of Revocable Permit No. S-7139 to Big Island Radio; Issuance of Revocable Permit to Skynet Hawaii, LLC, for Radio Tower Site at Kalaoa, North Kona, Hawaii, Tax Map Key: 3<sup>rd</sup>/ 7-3-49: 38**

BACKGROUND:

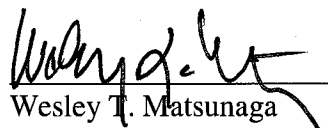
At its meeting of April 22, 2005, Agenda Item D-6, the Board of Land and Natural Resources, approved as amended, the termination of Revocable Permit No. S-7139 to Big Island Radio and the Issuance of a Revocable Permit to Skynet Hawaii, LLC, for radio tower site purposes at Kalaoa, North Kona, Hawaii, Tax Map Key: 3<sup>rd</sup>/ 7-3-49:38.

Upon preparing the Revocable Permit document, the Office of the Attorney General noted that the Conservation District Use Permits (CDUPs) referenced in the Recommendation Section of the Submittal is incorrect. As a result, staff would like to amend its prior Board Action of April 22, 2005, Item D-6, to change the CDUPs referenced under Recommendation "3.b."


RECOMMENDATION:

That the Board of Land and Natural Resources Amend Its Prior Actions of April 22, 2005, Item D-6, by changing the CDUPs referenced in Recommendation 3.b. from CDUA HA-6/27/87-1963 and HA-6/27/87-2034 to CDUA HA-12/15/86-1963 (HA-1963) and HA-5/27/87-2034 (HA-2034).

Respectfully Submitted,

  
Wesley T. Matsunaga  
Land Agent

APPROVED FOR SUBMITTAL:

  
Peter T. Young, Chairperson

**AMENDED**

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Land Division  
Honolulu, Hawaii 96813

April 22, 2005

Board of Land and Natural Resources  
State of Hawaii  
Honolulu, Hawaii

PSF No.: 04HD-357

HAWAII

**Termination of Revocable Permit No. S-7139 to Big Island Radio; Issuance of Revocable Permit to Skynet Hawaii, LLC, for Radio Tower Site at Kalaoa, North Kona, Hawaii, Tax Map Key: 3<sup>rd</sup>/7-3-49: 38.**

APPLICANT:

Skynet Hawaii, LLC, a domestic Limited Liability Company, whose business and mailing address is 74-5605 Luhia Street, Unit B-7, Kailua-Kona, Hawaii 96740.

LEGAL REFERENCE:

Sections 171-13 and -55, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands at Kalaoa, North Kona, Hawaii, identified by Tax Map Key: 3<sup>rd</sup>/7-3-49: 38, as shown on the attached map labeled Exhibit A.

AREA:

4.00 acres, more or less.

ZONING:

State Land Use District:	Conservation
County of Hawaii CZO:	Open

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act  
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

*As Amended*  
APPROVED BY THE BOARD OF  
LAND AND NATURAL RESOURCES  
AT ITS MEETING HELD ON *mo*

April 22, 2005

ITEM D-6

**EXHIBIT A**

CURRENT USE STATUS:

Vacant and unencumbered.

Previously encumbered by Revocable Permit No. S-7139, Big Island Radio, Permittee,  
for radio tower for synchronous transmitters and accessory building site purposes.  
Revocable Permit expired on January 16, 2005.

CHARACTER OF USE:

Radio tower for synchronous transmitters and accessory building site purposes.

COMMENCEMENT DATE:

The first day of the month to be determined by the Chairperson.

MONTHLY RENTAL:

\$1,500.00 per month, based on staff appraisal dated 2/10/05, attached as Exhibit B.

COLLATERAL SECURITY DEPOSIT:

Twice the monthly rental.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with the "Division of Land Management's Environmental Impact Statement Exemption List", approved by the Environmental Council and dated April 28, 1986, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1 that states, "Operations, repairs, or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion of change of use beyond that previously existing."

DCCA VERIFICATION:

Place of business registration confirmed:	YES <u>x</u>	NO
Registered business name confirmed:	YES <u>x</u>	NO
Applicant in good standing confirmed:	YES <u>x</u>	NO

REMARKS:

At its meeting of August 28, 1987, Item F-1-f, the Board of Land and Natural Resources approved the issuance of Revocable Permit No. S-6539, to Big Island Broadcasting

**EXHIBIT A**

Company, Ltd., for radio synchronous transmitter towers and accessory building site. At its meeting of May 8, 1987 (Item H-2), the Board approved Conservation District Use Permit HA-12/15/86-1963, for construction of towers and on November 20, 1987, approved HA-5/27/87-2034, for installation of propane generator.

At its meeting of June 13, 1997, Item D-31, the Land Board approved the cancellation of Revocable Permit S-6539 to Big Island Broadcasting; and Issuance of Revocable Permit No. S-7139, to Big Island Radio for similar purposes.

On December 21, 2004, Mr. Thomas Troland, District Manager of Skynet Hawaii, requested a revocable permit allowing for continued operations of its radio towers for synchronous radio transmission. Skynet Hawaii recently purchased the radio stations previously owned and operated by Big Island Radio, under Revocable Permit S-7139. Previously, Big Island Radio was designated as the "LP-1" or Primary Local Source for the Civil Defense Emergency Alert System. As a result, its monthly rental was discounted due to its invaluable public service to the County Civil Defense. To date, Skynet Hawaii does not yet have that designation, but is working towards that end. The Hawaii Civil Defense informs that all of the Big Island radio stations experience broadcast "dead spots", primarily within the Kau and North Kohala Districts; therefore the emergency broadcast system is not at full efficiency. Skynet Hawaii is possibly the only radio station with capabilities/potential of broadcasting over the entire Big Island, once all of its tower sites are in full operation. As there is no provision for the assignment of revocable permits, the existing permit (RPS-7139) to Big Island Radio shall be cancelled and a new permit to be issued to Skynet Hawaii, LLC.

A revocable permit is being recommended at this time, as staff does not feel that its current use is appropriate for the area given current demands for land availability and development in the area. The Department is currently working collaboratively with adjacent landowners, the Department of Hawaiian Home Lands, the County of Hawaii, and Hiluhilu Development, to construct a new mauka/makai connector road off the Queen Kaahumanu Highway at the Kona International Airport intersection. Such a connector road may dramatically impact the highest and best use of the area. As a result, steps are underway to eventually phase out the tower site, as it might consist of an obsolete facility and is no longer the highest and best use of the land. In the interim, the issuance of a revocable permit will enable HDLO to resume the collection of rents and provide permittee time to seek an alternate site for eventual vacancy of the property.

Proposed use is allowable under county zonings, which is Open.

Skynet Hawaii has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

To date, no other requests have been made for the subject property.

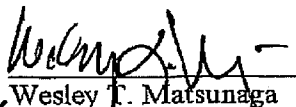
**EXHIBIT A**

No comment was solicited, as there will be no change in land use, and is merely a change in management for the continued operation of the radio transmitter tower site.

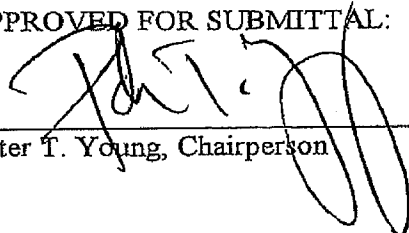
RECOMMENDATION: That the Board:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Authorize the termination of Revocable Permit No. S-7139, to Big Island Radio, effective on a date to be determined later;
3. Authorize the issuance of a revocable permit to Skynet Hawaii, LLC., covering the subject area for radio tower for synchronous transmitters and accessory building site purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
  - a. The standard terms and conditions of the most current revocable permit form, as may be amended from time to time;
  - b. Permittee shall comply with all terms and conditions of Conservation District Use Permits HA-6/27/87-1963 and HA-6/27/87-2034;
  - c. Review and approval by the Department of the Attorney General; and
  - c. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,

  
Wesley T. Matsunaga  
Land Agent

APPROVED FOR SUBMITTAL:

  
Peter T. Young, Chairperson

**EXHIBIT A**

Approved as amended. The Board amended the Monthly Rental Section as follows:

The applicant shall provide the staff appraiser with comparable rent information on his other tower sites. The staff appraiser shall re-evaluate his monthly rent conclusion given the information provided. Should the staff appraiser's revised monthly rent conclusion be unacceptable to the applicant, the monthly rent shall be determined by independent appraisal at the applicant's cost.

**EXHIBIT A**

